NOTES OF CASES.

Damages—Mental Suffering—Conflict of Laws.—The rule, as to recovery of damages for mental suffering, of the State where a telegram is presented for transmission, and not that of the State where it is to be delivered, is held, in Johnson *v.* Western U. Teleg. Co. (N. C.), 10 L. R. A. (N. S.), 256, to govern in an action for damages for failure to deliver a telegram, although the suit is brought in the latter State.

First-Class Theater.—The New York County Court, in construing a lease in the case of In re Schoelkopf, 105 New York Supplement, 477, was required to define what is a first-class theater. The lease provided that the premises should be used for a theater of the first class for the production of plays of the highest order. The court says: "From the evidence admitted in the case, it appears that there are certain classes of theaters and theatrical attractions, and that plays are divided into high (the first) class, popular price (or second class), melodramas, vaudeville, and burlesque." In view of this, the court holds that a first-class theater is not maintained by the production of theatricals of the last class above mentioned, though such attractions be of the first class of their kind.

Right of Wife to Sue for Alienation of Husband's Affections.—Oregon, like many other states, has a statute removing all disabilities upon a wife which are not imposed or recognized as existing as to the husband. Under this statute the Supreme Court of that state in Keen *v.* Keen, 90 Pacific Reporter, 147, holds that a wife may maintain an action for alienation of her husband's affections. As supporting authorities the court cites Postlewaite *v.* Postlewaite, 1 Ind. App. 473, 28 Northeastern Reporter, 99; Beach *v.* Brown, 20 Wash. 266, 55 Facific Reporter, 46, 43 L. R. A. 114, 72 Am. St. Rep. 98. As to the state authorities on this proposition the ccurt says: "In a few of the states it has been ruled by the courts of last resort that such an action cannot be maintained; but where modern legislation recognizes the doctrine that the wife has rights which the court should respect, reason and a great weight of authority uphold the principle that for the loss of consortium, which includes the husband's society, love, and assistance, the law now affords her an adequate remedy."

Constitutional Law—Slavery.—South Carolina has a law providing that any laborer working for a share of the crop or for wages in money or other valuable consideration under a contract for labor on farm land who shall receive advances either in money or supplies, and thereafter willfully and without just cause fail to perform the reasonable service required of him by the terms of the contract, shall

be liable to prosecution for misdemeanor and punishment by imprisonment. This law was enacted principally to constitute a weapon to compel especially negro farm laborers to perform the service required by their contracts of employment on pain of being sent to jail or being made members of the chain-gang. The United States District Court for the District of South Carolina in Ex parte Drayton, 153 Federal Reporter, 986, holds this law unconstitional, as violating the thirteenth and fourteenth amendments of the federal Constitution, and as not being a valid exercise of the police power of the state.

Draftsman as Fellow Servant with Elevator Man.—The New York Supreme Court in Fouquet *v.* New York Central & Hudson River Ry. Co., 103 New York Supplement, 1105, held that a draftsman in the employ of the engineering department of the New York Central Railroad was a fellow servant with a man running the elevator in the Grand Central Depot in New York, in which the draftsman worked.

Validity of Labor Law.—The validity of the New York law prohibiting the employment of females, regardless of age, in factories between 9 o'clock p. m. and 6 o'clock a. m., came up for final determination by the state courts in People *v.* Williams, 81 Northeastern Reporter, 778. The Court of Special Sessions of the First Division of the City of New York (100 New York Supplement, 377) held the law unconstitutional as infringing the constitutional right to contract. This decision was affirmed by the Appellate Division by a divided court (101 New York Supplement, 562, 116 App. Div. 379). The Court of Appeals now affirms the decision of the court below, and holds the law unconstitional on the same grounds as the Court of Special Sessions. The court says that the courts have gone very far in upholding legislative enactments framed clearly for the welfare, comfort, and health of the community; but when it is sought, as here, arbitrarily to prevent an adult femal citizen from working at any time of the day that suits her, it is time to call a halt. Such a law arbitrarily deprives citizens of their right to contract with each other.

Use of Public Streets by Interurban Railroads.—The extensive development of interurban railroads is gradually narrowing the distinction between the right of commercial railroads, or so-called steam railroads, and street railroads proper, as interurban roads in many instances partake of the nature of both. In Kinsey *v.* Union Traction Company, 81 Northeastern Reporter, 922, decided by the Indiana Supreme Court, one of the main contentions was whether or not interurban cars, operated on the streets of a city with its permission, for the carriage of passengers, express, and light freight by a corporation unorganized under the street railway laws, constituted an